

Meeting of 1999-10-12 Regular Meeting

MINUTES  
LAWTON CITY COUNCIL REGULAR MEETING  
OCTOBER 12, 1999 - 6:00 P.M.  
WAYNE GILLEY CITY HALL COUNCIL CHAMBER

Mayor Cecil E. Powell, Also Present:  
Presiding Bill Baker, City Manager  
John Vincent, City Attorney  
Sandra Rench, Deputy City Clerk  
Lt. Col. Jeff Ewing, Fort Sill Liaison

The meeting was called to order at 6:35 p.m. by Mayor Powell. Notice of meeting and agenda were posted on the City Hall notice board as required by State Law.

ROLL CALL

PRESENT: G. Wayne Smith, Ward One  
Richard Williams, Ward Two  
Glenn Devine, Ward Three  
John Purcell, Ward Four  
Robert Shanklin, Ward Five  
Charles Beller, Ward Six  
Stanley Haywood, Ward Seven  
Randy Warren, Ward Eight

ABSENT: None.

CONSIDER APPROVAL OF MINUTES OF LAWTON CITY COUNCIL REGULAR MEETING OF SEPTEMBER 28, 1999.

MOTION by Smith, SECOND by Haywood, for approval of the minutes. AYE: Haywood, Warren, Smith, Williams, Devine, Purcell, Shanklin, Beller. NAY: None. MOTION CARRIED.

AUDIENCE PARTICIPATION:

Russel John, member of the 15 member Flower Mound Road Water Association said they have a water line which is approximately 165 feet on Flower Mound Road. He said several years ago when the area was annexed south of Lee on Flower Mound Road they rebuilt the road and did a good job. He said the water line is on the east side of the road and has been there since the 1960's and after the improvement project was completed the line was left in good shape. He said the improvement project they had this past summer left the line exposed in one area and in several areas over a foot of dirt was removed from over the line so the pipe will be subject to freeze. He said they feel the road improvement project was due to the correctional facility which is good for the City of Lawton and they are a part of the City but felt it was unfair that they are asked, as a small non profit water association, to bare the cost of lowering the line. He said they would appreciate the Council's immediate consideration to do something with this because freezing weather is coming soon.

Beller asked if the water line has to be lowered or if there is a way it can be covered. John said they have cut the slope to cover it and it would need to be sodded, they don't have any rock beds to work through and it could probably be trenched and lowered. Beller asked how long the line is. John said there is a mile of line and one area is exposed and over a foot of dirt is gone from one part and they think they are close to the surface on other portions of it.

Devine asked if Mr. John knew what it was going to cost to lower the line. John said no. Devine asked if Mr. John was just making the Council aware of the problem. John said yes and the line was in good shape until they had the improvement project and they felt it was an imposition on the 15 member association to have to bare the cost of lowering the line. Devine asked Mr. John if they are requesting the City's assistance in getting the line lowered or to share in the cost for it. Mr. John said yes.

Purcell said it is a bigger issue than that, if they are going to trench it and help lower it, which they should do, they need to increase the size of the 2" pipe. He said when they annexed that into the City of Lawton they didn't do anything to provide water service to the citizens who live in that part of the city, they are still using water from the water association pipe. He said if they are going to trench it they should consider putting in a bigger pipe and move the water meter from the water association out of the city limits down on Bishop Road.

Shanklin asked Bill Baker why, if they exposed it, they didn't put it back because he was told by the City Attorney that they couldn't do it and if that is true asked why. Baker said he talked to Mr. Webber, Commissioner Turner, Mr. Mann and Senator Helton on this item. He said there is a lot of concern and the information he received is that this is a private line that does not belong to the City, they have no responsibility for the maintenance of the line and can't legally touch the line.

Shanklin asked if they can just bulldoze it up for a half mile. Baker said the City didn't tear it up, this project was a cooperative effort between the City, County and State, the State did the road surface, the County did the road preparation including the drainage work and the bar ditches, the City didn't do any of the work. He said the City's part of the agreement was to provide funding to do the base and road preparation for the first mile. He said he looked into this and found that the association could lower the line and file a Tort Claim against the City and the Council could consider the claim, if they wanted to get an estimate before they do the work they could put that estimate with their Tort Claim. He said the other option he told Mr. McMahon the other day was to get with the County and see if they would do something because it was the County that did the work, not the City, and that is what he knew about the situation.

Shanklin said Mr. Turner is present and would like him to respond.

Gail Turner, County Commissioner, said this has been a coordination between the City and the County, the first mile is in the City limits and the County has had nothing to do with this because it is in the City's jurisdiction, not in the County's. He said the County didn't have anything to do with the portion where the water line was uncovered because it is in the first mile, the County has basically zero responsibility for that mile because it is in the City's jurisdiction not the County's. He said Jenkins was the dirt contractor the City and County paid but it is a totally separate contract at Bishop Road, the County went south and the City went north, so the County has no responsibility or jurisdiction over the first mile of road, water line or ditch.

Shanklin asked if their equipment was in there at all. Turner said no.

Shanklin asked where Baker got his information.

Mayor Powell said he has been to the location at the request of several people and Mr. John's point is well taken, the cold temperatures are coming and this is something they need to move on rather expediently. He said the City Attorney has assured him that he will look into this tomorrow and will move on this to work with Mr. John in an attempt to arrive at something to their satisfaction.

Purcell said if they are going to trench it and bury the line they need to get something back to the Council to approve putting in a better pipe because they are going to have to do it eventually and should see if they can do it now. He said they would have to come up with some money to do it but they shouldn't bury an old rotten pipe just to solve the problem quickly, they still have a major problem for that one mile of road for the citizens that live out there.

Shanklin asked to go back to Mr. Baker's comments that the County did it and asked what led him to believe that. Baker said that was his understanding from Public Works. Shanklin said someone must be in error. Baker said it was his understanding that the City didn't do any of the dirt work.

Powell said Jenkins did the dirt work and didn't know who contracted with them but they didn't want to do any more because they were afraid they would get into more of the pipe at that location. Shanklin asked if they were employed by the City of Lawton. Vincent said he didn't know at this point but now that he has heard from Mr. Turner he remembered the situation but when they were investigating it earlier this week, that is not what they were told. He said the information they received was that they had entered into a cooperative agreement with the County, the County hired the engineer to do the design work and the County actually let the contract and the City paid the County approximately \$115,000 and he needed to look into the information Mr. Turner provided today because that is not what they were told before.

Tom Hall, Chairman, Parks & Recreation Commission, said he was joined by Commission members Jerry Thorne, Ron Watts and Jackie Barrett, and they were present to express their concern that their preference for the location of the city playground was not emphasized enough. He said their request was to locate the city playground at Elmer Thomas Park and the members wanted to express that to the City Council because they didn't feel it was expressed fully that it was the intent of the Commission and thought several of the members had spoken with the Council members about this but wanted to go on record in that regard.

Warren asked what their number two was on their pick list. Hall said it was Greer Park. Devine said he thought they settled that, that it was going to be in Greer Park. Powell said that was correct and asked Mr. Hall to restate his comments.

Hall said when it comes to matters like this they want to make sure their feelings are known because they feel sometimes the staff recommendations are not fully putting the emphasis where they would like to put it so they will be coming to the Council to make sure they are letting them know where their emphasis lies and he invited the Council members to attend their meetings. He said he talked to Mr. Baker who will be attending the meeting on October 25 so they will be able to get more input.

Shanklin said if the new parks director is not interested in the Parks and Recreation Commission maybe they need to look at abolishing it if that is how some of them feel, if they aren't going to be listened to they don't need to waste their time.

Baker said he sent Mr. Hall a letter with a copy to the Council. He said they want to be supportive and cooperate with the Parks and Recreation Commission and if they feel that support has not been that good up to this point, they are sorry and will improve, that is one reason why he will be going to the meeting and has asked the Assistant City Manager to start attending the meetings. He said in his letter he told Hall if he or a member of the Commission have any problems involving city staff, if they are not being supportive, not getting the information or not being cooperative, to contact him personally and he would look into it. He said it is their intent and was confident it was Mr. Salva's intent to be cooperative with the Commission and he had discussed this and was not concerned that it would be a problem in the future. He asked the members to contact him if they have any problems and he will assist in resolving the problems.

Shanklin said in reference to Elmer Thomas Park, if there is going to be a master plan it should be approved by Council, and asked if they are designating one individual who just came into town to tell them what they are going to do and make contact with different other entities like the Chamber of Commerce and McMahon Foundation when at one time they said that the contact with McMahon Foundation would be done through the Mayor, Mayor Marley was the Mayor at that time, and any contact with McMahon was supposed to go through the Mayor. He said he didn't want to go over eight or ten things they didn't fulfill that when McMahon gave them something they ignored it so they appointed the Mayor and the Minutes will reflect that the Mayor would be the contact at all times with McMahon Foundation.

Baker said he wasn't aware of that but Mr. Salva was looking into the Master Plan at his request and he and Salva knew they would not proceed with this until Council authorized a request to McMahon. He said they were looking at a possible \$10,000 request to McMahon and he had told Mr. Salva that it wasn't something they needed to go to McMahon for, when they get ready to go to McMahon they need a building or some similar type of project and they wouldn't be going to McMahon for a request without Council's approval.

Shanklin asked if the Clerk or Purcell recalled the conversation regarding the Mayor taking any requests before McMahon. Purcell said he remembered the Council asking them for money. Shanklin said he recalled the Council agreeing that the Mayor would make any requests to McMahon. Purcell said he recalled that they couldn't ask them for money, only the Mayor because they weren't sure of the approach when asking for money.

Shanklin said they are trying to stop the rank and file of going to DEQ or the EPA on their own and not through the City Manager with the Mayor's signature and they need to send the number one elected official to McMahon, which is the Mayor, and is their point of contact and if they check the minutes it is in there. He asked if the Council agreed that the point of contact for McMahon should be the Mayor.

Williams said either the Mayor or City Manager and didn't think anyone would be asking them for money, they know what the needs are. He said Mr. Wood, their executive director, calls Bill Baker or the Mayor so he wouldn't have any problem with either of them.

Beller asked if they understand that the Parks and Recreation Commission is an advisory board which means this is what they would like to see but if the staff thinks there is a better way to serve the community, he would hope the board wouldn't get upset just because they didn't take their recommendation in the advisory capacity. Hall said they know they are an advisory board and may not always agree with the staff and the City Council can overturn both of them but they want to emphasize their point of view and they don't always feel that is being expressed.

Warren said if they are talking about the 35th Division scenario at the last meeting he was fully aware from Mr. Salva's briefing that the Commission's choice was Elmer Thomas Park and staff didn't agree with that and he knew what they wanted and understand what staff wanted and understood why staff wanted it at a different location and he was fully aware of everything that was going on.

Williams asked if they are still meeting at the H.C. King Center and if there are any vacancies on the Commission. Hall said they are still meeting at the same location and there are two Mayor vacancies that just came about and one other commission member.

Ray Sartain, 2319 NW Austin Drive, said a month ago he was denied a building permit because he hadn't done any work within 30 days, however as he stated before, he got the building permit on August 5, had an electrician in the house on August 8 and did some work at another place and he was getting his equipment and said that the last time and is again here to ask because no one believes he is doing anything, he had a licensed contractor come to the house and he has a contract with him and had pictures. He said he was asking for another month or two to get the house in shape.

Powell asked what address Sartain was talking about. Sartain said it is for 806 SW 15th and no one told him he had 30 days. Powell said this address is on Page 216 (Minutes) if they wanted to look at it.

Williams said that was put back on the demolition list.

Vincent said it isn't on the agenda and the Council can't take any action.

Sartain said the contractor had a list of all the materials he had and asked for reconsideration on this matter.

Powell said the Council can't take any action on audience participation and asked for advise to Mr. Sartain.

Vincent said in order for this to be reconsidered by the Council it has to be reagendaed and the Council Policy would have to be waived. He said he thought the contract for demolition had been let. Tucker said they have asked for estimates, received the request from Mr. Sartain and they gave him two weeks in which to get his demolition permit. Vincent said normal practice is if the Council directs this item to be put back on the agenda with consideration of waiving the policy the contract is not let, so it is up to the Council as to whether they direct them to put it on the next agenda.

Williams said he wouldn't.

Shanklin said he would, they should listen to it and he told Mr. Sartain that he could take this to District Court and get an injunction against the City, they are denying him his right to fix it up and thought he had honorable intent because he did some work.

Sartain said he would appreciate more consideration.

Powell said this can't have any action whatsoever at this time.

Baker said they are preparing to let the demolition contract and asked if council wanted the staff to do something differently.

Williams said he didn't, they need to let it go.

Vincent said he had been contacted by an attorney and had furnished him records back to 1997 which was the first time they had considered it and he has been advised of his rights.

#### BUSINESS ITEMS:

1. Consider approving proposed changes to Council Policy 5-2, Treated Water Outside the Municipal Limits to Individuals and Multi-Water Users. Exhibits: Proposed Council Policy 5-2.

Bigham said at the last City Council meeting staff had been directed to revise Council Policy 5-2 as it related to selling water outside the city limits. He said they have a copy of the revised Council Policy which essentially removes the Development Timing Areas on Page 7. He said essentially if water is sold outside the City limits through a multi-meter agreement, it is the option of the purchaser as to whether he wants to be annexed into the City, if he does then the annexation would occur and all the infrastructure to the development would have to happen, if the purchaser wishes not to be annexed then the private water line would be put in and not accepted by the Council. He said Page 7 of the agenda, 2.c. "If the area is not annexed into the city" add "the private water line" take out the comma "connection to the City's water main shall be designed and installed in accordance with the City Code." He said that would clarify the actual connection to the public and private lines have to meet City Code standards.

Vincent asked if Bigham was changing the word "connecting" to "connection". Bigham said that was correct.

Vincent said there had been discussion about subsection f. which is the current policy and is the service line from the private water main to the house or structure, right now it has to meet City Code and there was discussion whether the service line that connects to a line that is not necessarily to City Code meets the City Code and was bringing that up for discussion. He said they also need to change the effective date to October 12.

Beller asked what Bigham's position is on f. on page 8. Bigham said he didn't have a strong position one way or the other, this has been a standard provision in the agreements and is applicable to the individual water agreements. He said he didn't think there was any great additional cost to put it to City standards but in the event a public water line is put in, in lieu of the private water line they would already have that private service line meeting City Code standards. He said if the Council wants to delete that it would be fine but recommended the second sentence relating to the back flow device be left in.

Beller said if the service lines aren't annexed they don't have to meet the standards so why would they require it unless annexation is requested so asked that they delete the first sentence of the paragraph.

Williams asked for a difference or reason in trying to determine the water line that would meet City Code versus the water line that would not meet City Code, is it just the schedule size of the pipe itself. Bigham asked if he was talking about subsection f. and said that would be the service line from the meter to the house and Tucker may be able to elaborate on the City Code standards but this would be the same standards they use in the City, such as the proper size line, schedule pipe and the connections. Tucker said regarding the lines from the meters to the house the City standards are the State of Oklahoma Plumbing Standards, and the difference is that there may or may not have been someone check it but they protect their public water supply with the back flow preventer at that point.

Beller asked if the installation person would have to meet the state standards. Tucker said yes they would.

Purcell said b. and c., which is where the people earlier had a problem and the next item, he didn't understand the wording because b. states that if the areas are to be annexed then all infrastructure must be brought up to City Code, if it is to be

annexed to sell City water; c. says if it is not to be annexed just the lines connected to the City main have to meet Code and asked what happens five years later when it has to be annexed. Vincent said that is similar to what they are facing with the Flower Mound Association right now, by changing the word connecting to connection they are only actually talking about the physical location of the connection to the City main to the private service main that will service the various houses, they are not talking about the service lines themselves at that point. He said regarding b., if the developer requests annexation at the same time he is getting water from the City then that development will be inside the City limits by the time everything gets built so all the infrastructure, streets, storm drainage, etc. will need to be built according to Code because he is requesting that come into the City right now. He said section c., with the change from connecting to connection, they are only talking about the one point and it puts them in the situation they have with the Flower Mound Road Association because he understands the line is two inch PVC pipe of some kind. He said he has not seen it but was told it is similar to what the oil companies used years ago that is rolled out and buried and it wouldn't necessarily meet the schedule for pipe strength and structure, etc. so by changing connecting to connection they are only talking about a point where if they left it at connecting that would mean at the time of initial installation it would meet the Code standards.

Purcell asked how that solves the problem when five years later they annex the portion where the connection is which meets the city standards but everything else from that connection into wherever they're annexing does not. Divine said it would be go back to the Grandfather clause where once they change the connection or the water line they would have to bring it up to City Code at that time, in other words if it wasn't annexed they could use what they have now, once it is annexed, if they make any changes in any way on the water line they have to bring it up to City Code. He said once it is disturbed it has to be brought up to City Code before they can get service and it has to be inspected.

Purcell asked what happens if they don't want it annexed but the City says they are going to annex and go through the process, do they still have to bring it up to Code. Devine said it goes back to the Grandfather clause until they make any kind of change on the line then it would have to be brought up to City Code.

Vincent said under the new annexation laws that went into effect in the early 1990's the city has to produce a five year plan that will show how the city service will be taken into the new annexed area if it isn't done at the request of the people being annexed, that doesn't mean the services have to be provided within five years it means the plan has to show a five year plan on bringing services into it. He said if there is a two inch line that doesn't provide fire flows and it is annexed in and they have a requirement to provide fire service then they will have to come up with a plan on how to do it.

Shanklin asked if it would be at his expense. Vincent said it would depend on what plan they adopt, most generally it would be the City, but there are water, street and sewer districts that can be created under the Statutes if certain conditions are met that would amortize the cost to different people across the board that are being serviced.

Devine said they need to delete the first part regarding the service line shall meet the standards of the City Code to the second sentence for the back flow device.

Shanklin asked what defines the builder, if it is the individual building a home. Vincent said it would be the person setting on the service line.

Vincent recommended additional wording to the second sentence of f. The builders shall be required to install a back flow preventer and valve "onto service lines serving the residence." Devine agreed with the recommendation.

Powell asked if that was in the form of a motion and Devine said yes.

Smith and Beller seconded the motion.

Vincent asked if that included changing "connecting" to "connection" and Devine and Beller agreed to change it to connection.

Vincent said the other change would be to the effective date.

MOTION by Devine, SECOND by Smith and Beller, to delete the first sentence of 2.f. which would then read "All builders shall be required to install a back flow preventer and valve onto service lines serving the residence" and changing 2.c. "connecting" to "connection" with an effective date of October 12, 1999. AYE: Warren, Smith, Williams, Devine, Purcell, Shanklin, Beller, Haywood. NAY: None. MOTION CARRIED.

2. Consider waiving the provisions of Council Policy 5-2 and consider entering into a multi-meter agreement with the Windridge Estates Water Association, Inc. for the sale of treated water outside the City limits, and rescind an individual agreement with Dr. McGath. Exhibits: Letter of Request with Map; Location Map; Proposed Agreement; Excerpt 9/1/99 Council Minutes.

Vincent said there was some confusion on what language was supposed to be placed in paragraph 9 based on a motion made at the Outside Water Committee meeting. He said they have prepared draft language and he had provided that to Mr. Copeland, the attorney for the Water Association. He said the draft basically rewrites paragraph 9, there is no difference in the contract or agreement in the agenda with the proposed new agreement except for this paragraph which goes along with the revisions made in the Council Policy whereby "The buyer agrees that upon annexation of the area served by the buyer, at the request of the buyer or a majority of the property owners" then they have to build their

infrastructure, if the city annexes it then "If the area serviced by the buyer is annexed by the City absent the request of the buyer the City shall be responsible" for providing any infrastructure in the area that is not already in there and goes with State Statutes so there is no conflict there. He said they could contract the way the motion was but they prepared two contracts and the message he received from Mr. Copeland today was that if he didn't hear from him by 5:00 p.m. then Dr. McGath agreed with the language in the proposed new paragraph 9.

Dr. McGath said he was in agreement with that and the motion carried in the previous item makes this a moot point as long as they can change it to the paragraph just read.

MOTION by Smith, SECOND by Purcell, to waive the provisions of Council Policy 5-2 and approve a multi-meter water association agreement with the Windridge Estates Water Association Inc., for the sale of treated water outside the City limits, and rescind an individual agreement with Dr. McGath.

Shanklin said the first time Dr. McGath applied for water he had asked him if he was planning on selling the property and he understood that he wasn't and he asked Dr. McGath at the last Committee meeting if he remembered that conversation and the only reason he asked him that was because his property is next to Quail Run Estates. Shanklin asked why they had to build that association to the City's standards and why Larry Neil had to build the roads to our standards and raise it up 6" at a considerable expense. He said there is a water association and a development and asked if that is the difference. Bigham said the agreements the City of Lawton had with Dennis Bly of Quail Run made it a requirement that the streets and water lines had to be to the City standards, the same language was in the Wichita Ridge agreement on the west side of town. He said it was part of a compromise to the Council Policy, in lieu of being annexed the Committee recommended the requirements in the water agreement. Shanklin said they wouldn't have had to do that to get water there. Bigham said under the revised Council Policy that would not have been a requirement, it was negotiated in the Water Committee meeting and the recommendation to the City Council to include that language in the agreement and the applicant was agreeable to executing those documents. Shanklin said they wouldn't have had to go to that expense then. Vincent said the old Council Policy required that developments such as Mr. Neil's be annexed and in lieu of annexation, in order to waive the Council Policy so he wouldn't have to be annexed, he agreed to put the infrastructure in according to Code and it was a negotiated agreement. He said when they are negotiating they start with a clean slate and they each ask for certain things until they reach an agreement and it was approved by Council.

Shanklin said he has no heartburn with Dr. McGath doing this section but has a heartburn with putting people's feet to the fire when it isn't necessary just because they had the water and he didn't like that.

VOTE ON MOTION: AYE: Smith, Williams, Devine, Purcell, Shanklin, Beller, Haywood, Warren. NAY: None. MOTION CARRIED.

#### CONSENT AGENDA:

3. Consider the following damage claim recommended for approval: George and Jynelta Snodgrass. Exhibits: Legal Opinion/Recommendation. Action: Approval of claim in the amount of \$326.69.

#### ITEM 4 WAS CONSIDERED SEPARATELY AS SHOWN BELOW.

5. Consider a resolution approving action taken by the Lawton Water Authority authorizing issuance, sale and delivery of the Authority's promissory note to the Oklahoma Water Resources Board; ratifying and confirming a certain lease agreement, as amended; and containing other provisions related thereto. Exhibits: Resolution No. 99-126.

(Title only) Resolution No. 99-126

A resolution approving action taken by the Lawton Water Authority authorizing issuance, sale and delivery of the Authority's Promissory Note to the Oklahoma Water Resources Board; ratifying and confirming a certain lease agreement, as amended, and containing other provisions related thereto.

6. Consider approving proposed changes to Council Policy 2-1, Initiation of Civil Suits and Subsequent Legal Proceedings. Exhibits: Proposed Council Policy 2-1. Action: Approval of item. "Background: The proposed change will allow the City Attorney authorization to initiate an action in the District Court of Comanche County for collection of money owed in an amount not to exceed \$1,000.00 without prior approval of the Council. Further, it will also allow the City Attorney authorization to waive collection if the amount owed to the City is less than \$500.00."

7. Consider adopting a resolution ratifying the action of the City Attorney in filing and making payment of the judgment in the Workers' Compensation case of Ronald D. Maiberger in the Workers' Compensation Court, Case No. 98-3380X. Exhibits: Resolution No. 99-127.

(Title only) Resolution No. 99-127

A resolution ratifying the actions of the City Attorney in making payment of the judgment in the Workers' Compensation case of Ronald D. Maiberger for the amount of Fifteen Thousand Six Hundred Twenty-One Dollars and Forty-Two Cents (\$16,621.42), per order of the Workers' Compensation Court, and filing a foreign judgment in the District Court of Comanche County for purposes of placing said judgment on the tax rolls.

8. Consider approving a resolution amending Resolution No. 99-120 by correcting the legal description of the property located at 806 and 806-1/2 SW 15th Street. Exhibits: Resolution No. 99-128.

(Title only) Resolution No. 99-128

A resolution amending Resolution No. 99-120 by correcting the legal description of 806 and 806-1/2 SW 15th Street.

9. Consider accepting a public utility easement from the Cracker Barrel Old Country Store to maintain a sanitary sewer main. Exhibits: None. Easement on file in City Clerk's Office. Action: Approval of item regarding easement in the vicinity of 605 E Gore Boulevard.

10. Consider approving the plans and specifications for a left turn bay at SW 10th Street and Lee Boulevard. Exhibits: Location Map; Memorandum from Engineering Associate. Action: Approval of item.

11. Consider approving plans and specifications for the Chisolm Drainage Channel Project #99-22 and authorizing staff to advertise for bids. Exhibits: Location Map. Action: Approval of item.

12. Consider accepting median openings and turn bays constructed at 2302 E. Gore Boulevard and 2612 W. Lee Boulevard for public dedication and an escrow agreement in lieu of maintenance bond. Exhibits: None. (Escrow Agreement on file in the City Clerk's Office) Action: Approval of item.

13. Consider approving Change Order #1 assessing liquidated damages, accepting Larrance Street and Waterline Project 99-10 as constructed by T & G Construction, Inc., and placing the Maintenance Bond into effect. Exhibits: Location Map. (Change Order #1 is on file in City Engineer's Office) Action: Approval of item.

14. Consider awarding a construction contract to Thaxton Electric Company for the Lawton Public Library Lighting Project #99-24. Exhibits: Bid Tabulation. Action: Approval of contract in the amount of \$58,920.00.

15. Consider approval of the costs of demolition on the following properties, which were condemned and demolished by the City: #14 SW B Ave., 610 SW B Ave., 2601 SW B Ave., 210-1/2 NW Columbia Ave., 1606 SW D Ave., 811 SW E Ave., 904 SW E Ave., 1408 SW E Ave., 1312 SW G Ave., 403 SW Garfield, 413 SW Garfield, 2030 and 2030-1/2 SW Monroe Ave., 514 NW 58th St., 2515 SW I Ave., and 2606 SW H Ave. Exhibits: Notice of Amount of Cost for each property. Action: Approval of item.

16. Consider approving the following contract extensions: A) Liquid Sulfur Dioxide with DPC Industries, Inc.; B) Electric Motor Repair with J & W Electric Motor Company; C) Welding Gases with Mid South Gas (f/k/a Sooner Airgas); D) Rear Suspension Repairs with Loden Springs Suspension; E) Upholster Damaged Seats with L & L Machine. Exhibits: None. Action: Approval of item.

17. Consider awarding bid for Sale of Landfill Scale. Exhibits: Department Recommendation; Abstract of Bids. Action: Award bid to Sooner Scale, Inc., of Oklahoma City.

18. Consider awarding contract for Portable Air Compressor. Exhibits: Department Recommendation; Abstract of Bids. Action: Award contract to Kirby Smith Machinery, Inc.

19. Consider awarding contract for Palletized Road Paint Striper. Exhibits: Department Recommendation; Abstract of Bids. Action: Award contract to Kelly-Creswell Co.

20. Consider appointments to boards and commissions. Exhibits: Memorandum.

Citizens' Advisory Committee CIP: Mike Jones, Ward 6, Term: 10/12/99-5/12/2001; Dr. Frank Wamsley, Ward 2, Term: 10/12/99-9/24/2002

Parks & Recreation Commission: Jana Barrett, Ward 5, Term: 10/12/99-5/12/2000

21. Consider approval of payroll for the period of October 4 through 17, 1999. Exhibits: None.

MOTION by Williams, SECOND by Purcell, to approve the Consent Agenda items as recommended with the exception of Item 4. AYE: Williams, Devine, Purcell, Shanklin, Beller, Haywood, Warren, Smith. NAY: None. MOTION CARRIED.

4. Consider the following damage claims recommended for denial: Anthony M. and Cola Jean Cominos; Weldon and Beverlee Gray; Don and Carol Hathaway; Meadowbrook Square Apartments; and Debra J. Riggins. Exhibits: Legal Opinions/Recommendations. Action: Denial of claims.

Powell said Mr. Cominos could not be present and requested this to be on the October 26 agenda. Vincent requested that Anthony M. and Cola Jean Cominos claim be tabled to the October 26, meeting and recommend denial for the remainder of Item 4.

Powell asked if they paid for the resodding of lawns on the south side of Country Club Drive after the new one was put in. Baker said the City did not sod it, it was a construction contract and the contractor was required to sod, it is not unusual to have that in their construction contracts but the City did not perform the work and didn't sod it. Powell asked who paid for the contract. Baker said the City of Lawton paid the contract. Powell said even though the City did not do the work

themselves it was paid for by the City and asked why they have a rule for one side of the street and a different rule for the other side of the street. Baker said that is usually a part of a construction contract, as far as their work though Public Works he can't recall them sodding back an area or planting grass or seed, they restore the area with top soil and level it and then leave it. He said they have not, as a standard practice, replaced the grass or put in the sod.

Powell said that is hard to explain to someone living across the street and the claim is being denied, both are in the easement, the difference was they let a contract on the south side of the street and on the north side of the street they did it themselves, the claim is Don and Carol Hathaway.

Williams requested the Hathaway claim be pulled. Vincent said they can reconsider it by tabling it for two weeks.

Vincent recommended the others be denied which would be Weldon and Beverlee Gray; Meadowbrook Square Apartments and Debra J. Riggins.

MOTION by Devine, SECOND by Haywood, to table the claims of Anthony M. and Cola Jean Cominos; and Don and Carol Hathaway and to deny the claims of Weldon and Beverlee Gray; Meadowbrook Square Apartments and Debra J. Riggins. AYE: Devine, Purcell, Shanklin, Beller, Haywood, Warren, Smith, Williams. NAY: None. MOTION CARRIED.

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER.

Shanklin said he read in the newspaper this morning about a comma and asked if they had ever discussed that and had Vincent been made aware of that regarding the comma that was missing in the initial refresher. Vincent said according to the union the comma was missing, the City Attorney's Office who helped draft that doesn't think the comma was missing. Shanklin asked what the intent of the story was. Vincent said the intent of the story was that they go out and get their own training and then the City would pay for the initial or first refresher course or subsequent courses and was what they intended when they drafted that in 1994. Shanklin said they paid for it all. Vincent said unbeknownst to his office and the City Manager's Office it was being paid for through the basic school by fire fighters up to 1997 and Mr. Schumpert stopped it in 1997.

Shanklin asked if that was how they got their EMT. Vincent said they are paying a 6% incentive and it is the feeling of the City, just as they proposed in the current contract that is up for arbitration, that the fire fighters who want the 6% incentive should provide their own training to receive the 6% which is approximately \$1,250 to \$1,350 depending on their grade and rank per year.

Shanklin asked if they give them other education funds for their incentives. Vincent said there are other education incentives available and under the revised contract, depending on what the arbitrator will choose and what the Council should choose after that, will come back approximately November 4, and those will possibly be revised.

Shanklin said the arbitrator ordered the comma to go in. Vincent said he awarded it for all non-probationary fire fighters after a certain date but those prior to that he did not. He said the newspaper didn't quite get the quote right from the arbitrator and he would provide a copy of the arbitration award to the Council.

Powell said there will be a Y2K community meeting at the Vo-Tech Worley Center at 6:30 p.m. to 8:00 p.m. in Room 301. He said this came as a request from his office through Washington D.C. as part of the President's request to have these meetings. He said there will be 24 people present from different organizations to answer questions and presentations will be given. He said it will be straight to the point and hope to answer some questions dealing with Y2K and it is a free informational session for the Community.

Powell said on October 29, at 4:00 p.m., there will be a ground breaking ceremony for the 82nd Street reconstruction project and asked for everyone to be there, the contract has been let and the dirt work will probably start a couple days before that. He said it will show the citizens that the CIP money is working for them and hoped to have the Secretary, Neil McCaleb and Bob Rose, Mr. Lloyd Benson will be present and it will be great.

Devine asked why someone comes in for a permit and gets strung along for a long time, he did everything he was asked to do, spent all kinds of money and then was told no. He said he didn't understand what was happening to the staff. He asked for an agenda item to this effect, he said Mr. Baker is aware of this because it is Second Street, someone needs to answer to this.

Williams said last Friday PSO, City National Bank, the Lawton Constitution and the Lawton Housing Authority participated in the Downtown Chowdown and he thanked the Parks and Recreation and Public Works Departments and the celebrity servers for all their time and help. He said all the proceeds were donated and will go to the United Way and thanked everyone for their help in making the Chowdown a success.

Baker said he has asked Mr. Wells to give the Council a briefing in November on the Y2K on where the City is and Mr. Jackson has been working very hard on that. He said there is more happening than they think and Council needs to be aware of what is going on with Y2K in the City.

Baker said CH2M Hill was the consultant on the water project, the short term/long term water study and their water treatment capacities with reports to the Council. He said another important part of their scope of services was to look at



the operation of their City dams and the impact south of the City and they were to come back with some recommendations on how to address that problem from a technical standpoint and they are ready to give the presentation to the Council. He said the presentation will take an hour and didn't know if they wanted to have the presentation at a regular or special meeting, they can come to Lawton when the Council wants to set this up. Several Council members requested a special meeting, Shanklin requested it be heard at a regular meeting.

Devine said the person who gave the orientation to the Council members on their computers doesn't know what he is in for and did a good job.

#### BUSINESS ITEM:

22. Pursuant to Section 307B4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the civil suit styled City of Lawton v. IUPA, Local 24 and William Mathis, Supreme Court Case No. 91,397, and take appropriate action in open session. Exhibits: None.

MOVED by Smith, SECOND by Williams, to convene in executive session to consider Item 22 as recommended by the legal staff. AYE: Purcell, Shanklin, Beller, Haywood, Warren, Smith, Williams, Devine. NAY: None. MOTION CARRIED.

The Mayor and Council convened in executive session at approximately 7:35 p.m. and reconvened in regular, open session at approximately 7:40 p.m. with roll call reflecting all members present.

Vincent reported the Mayor and Council went into executive session to discuss Item 22 and Vincent requested to the authority to continue with the appeal.

MOTION by Smith, SECOND by Devine, to authorize the City Attorney to continue with the appeal. AYE: Beller, Haywood, Warren, Smith, William, Devine, Purcell. NAY: Shanklin. MOTION CARRIED.

There being no further business, the meeting adjourned at 7:45 p.m. upon motion, second and roll call vote.